



An  
Bord  
Pleanála

## Inspector's Report

### ABP-304806-19

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<b>Development</b>	Construction of 6 no. semi-detached houses and all associated ancillary works.
<b>Location</b>	Watergate Street, Knockbrogan, Bandon, Co. Cork
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	18/6293
<b>Applicant(s)</b>	Sean Canniffe and Brendan Hayden
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party V. Grant
<b>Appellant(s)</b>	Neville Lester and Ashling Long
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	23 <sup>rd</sup> September 2019
<b>Inspector</b>	Elaine Power

## 1.0 Site Location and Description

- 1.1. The subject site is located at Knockbrogan, approx. 650m north east of Bandon town centre. The site is bound to the north by agricultural lands, to the east by Lovell's Hill (L-2041) and to the south and west by a 2-storey house 'Summerhill House' and grounds which are registered on the NIAH (Reg. No.20844052). The area is generally characterised by low density housing and agricultural lands.
- 1.2. The site has a stated area of 0.356 ha. It is generally triangular in shape and significantly elevated from the public road. The site boundaries include mature vegetation and trees.

## 2.0 Proposed Development

- 2.1. It is proposed to construct a single row of 6 no. 3-bed, semi-detached houses. 2 no house types are proposed. House Type A has a gross floor area of 154sqm and House Type B has a gross floor area of 149sqm. All houses are traditional design with a pitched roof and rendered finish. House Type A includes a porch with a stone finish. The 6 no. houses are provided in a row, parallel to the rear (north) boundary line of the site.
- 2.2. Access is proposed from a new 10m wide splayed access onto Lovell's Hill (L-2041). Each house has a driveway with off street car parking for 2 no. cars each. 2 no. additional visitor spaces are proposed off the new internal access road. A separate pedestrian route is also proposed onto the public road.
- 2.3. It is proposed that the site would be connect to the main foul sewer and public main water supply.
- 2.4. A Planning Report and an Engineering Report were submitted with the application.
- 2.5. ***Unsolicited Further Information lodged 11th October 2019***  
A response to third party appeals was submitted. The submission did not result in any alterations to the proposed development.

## 2.6. ***Further Information lodged on 26th March 2019***

In response to concerns regarding overdevelopment and lack of open space a revised proposal comprising of 4 no. 3-bed semi-detached houses was submitted.

A Public Lighting Design Report and additional details regarding water services, construction practices, and the internal road layout were submitted with the response.

## 2.7. ***Clarification of Further Information lodged 14th May 2019***

The response to clarification of further information did not result in any alterations to the revised layout submitted by way of further information.

Surface Water Drainage Systems Design Calculations were submitted with the response.

## 3.0 **Planning Authority Decision**

### 3.1. **Decision**

Grant permission subject to 32 no. conditions. The relevant conditions are noted below: -

**Condition 1:** Clarified that permission was granted for the scheme as amended by clarification of further information.

**Condition 2:** required a bond

**Condition 3:** required a landscaping scheme to be submitted and agreed with the planning authority

**Condition 4:** requires all trees and hedgerows to be protected during the construction phase except those whose removals has been agreed with the planning authority.

**Conditions 15 and 21:** related to the proposed retaining structures

**Condition 16:** related to boundary treatments

**Conditions 17 and 24:** related to surface water management

**Conditions 26 – 31:** related to public lighting

**Condition 32:** related to a development contribution.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

The initial reports from Area Planner and the Senior Executive Planner raised concerns regarding the proposed development and recommended that further information be sought regarding the following: -

- A revised design and layout should be submitted having regard to the constraints of the site
- Revised road layout, and details of traffic generation and access arrangements
- Clarity regarding number of trees to be removed
- Details of surface water, main water supply and foul water
- Details of proposed construction management
- Details of proposed public lighting

Following receipt of clarification of further information, the final reports by the Area Planner and the Senior Executive considered that all concerns raised had been addressed and recommended that permission be granted subject to conditions.

### 3.2.2. Other Technical Reports

**Estates** final report: No objection subject to conditions

**Public Lighting** final report: No objection subject to conditions

**Engineering** final report: No objection subject to conditions.

### 3.3. Prescribed Bodies

***Inland Fisheries Ireland:*** No objection

***Irish Water:*** A Pre-Connection Agreement was submitted with the application.

### 3.4. Third Party Observations

2 no. third party objections were received. The concerns raised are similar to those in the third-party appeal.

## 4.0 Planning History

***Reg. Ref. 06/11043:*** Permission was granted in 2007 for the construction of 4 no. detached houses on a larger site which incorporated the subject site. An Extension of Duration of Permission was granted in 2012 (Reg. Ref. 12/4645).

## 5.0 Policy Context

### 5.1. Bandon Kinsale Municipal District Local Area Plan 2017

The subject site is identified as being within the development boundary for Bandon, which is identified as a Main Town in the LAP. A population target growth of approx. 1,000 persons is set out for the lifetime of the Plan. In order to accommodate this level of population growth an additional 892 housing units are required. Relevant Policies include BD-GO-01 and BD-GO-06.

### 5.2. Cork County Development Plan, 2014

The relevant policies of the Cork County Development Plan are set out below.

- HOU 3-1: Sustainable Residential Communities
- HOU 3-2: Urban Design
- HOU 3-3: Housing Mix
- SC5-2: Quality Provision of Public Open Space
- SC 5-8: Private Open Space Provision
- TM 2-1: Walking

- TM 2-2: Cycling
- GI 3-1: Green Infrastructure – New Developments
- ZU 2-1: Development and Land Use Zoning
- ZU 2-2: Development Boundaries
- ZU 3-2: Appropriate Uses in Residential Areas

### 5.3. ***National Planning Framework (2018)***

The relevant policies of the National Planning Framework which relate to creating high quality urban places and increasing residential densities in appropriate locations are set out below.

- Policy Objective 4
- Policy Objective 6
- Policy Objective 11
- Policy Objective 33
- Policy Objective 35

### 5.4. ***National Guidance***

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Area (2009).
- Urban Design Manual, A Best Practice (DOEHLG, 2009)
- Design Manual for Urban Roads and Streets DMURS (2013)

### 5.5. **Natural Heritage Designations**

There are no designated areas in the vicinity of the site.

### 5.6. **EIA Screening**

Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

A third-party appeal was received from Neville Lester and Ashling Long whose property is located to the south and west of the appeal site. The issues raised are summarised below.

- The appellants house is of historical interest and is listed on the NIAH. The site boundary has been incorrectly shown. The development as shown would have a negative impact on a historical tree line along the southern and western boundary of the site.
- It is unclear if the proposed vehicular access and internal road network could be provided with the applicants site.
- Insufficient boundary treatment has been provided between the subject site and the appellants site. There are concerns that future residents could access the appellants site.
- There is no footpath linking the proposed houses to the public road.

### 6.2. Applicant Response

The applicant's response is outlined below:

- The concerns raised are based on a false assertion that the site boundary is incorrect.
- All works would be carried out on lands within the ownership of the applicant. The site boundaries match the land registry map.
- A full topographical survey was carried out and all features are correctly shown on the drawings submitted.

### 6.3. Planning Authority Response

None

## 7.0 **Assessment**

7.1. As indicated, the appeal refers to the revised scheme of 4 no. houses as submitted by way of further information on the 26<sup>th</sup> February 2019 and by way of clarification of further information on the 14<sup>th</sup> May 2019. The following assessment therefore focuses on that proposal with reference to the original proposal, where appropriate.

7.2. The main concerns raised in this appeal relate to the grounds of appeal. Appropriate Assessment requirements are also considered. I am satisfied that no other substantial planning issues arise. The main issues can be dealt with under the following headings:

- Principle of Development
- Legal Issues
- Boundary Treatments
- Traffic and Access
- Appropriate Assessment

### 7.3. ***Principle of Development***

7.3.1. There is no specific zoning objective for the site, however, it is located within the 'existing built up area' of Bandon. It is noted that the Summerhill House located to the south and west of the subject site is listed on the NIAH (Reg. No. 20844052).

7.3.2. Having regard to the sites location, the existing pattern of development in the area and the limited size of the development it is considered that the provision of a residential scheme would be appropriate at this site and would be compatible with local and national policy objectives.

### 7.4. ***Legal Issues***

7.4.1. The main concern raised in the appeal is that the proposed development encroaches on the appellants site, which is located to the south and west of the appeal site. The appellants have stated that the layout as proposed would have a negative impact on the existing mature trees and vegetation along the site boundary. In response the



applicant has stated that all works would be carried out on lands within the ownership of the applicant and that a full topographical survey was carried out and all features are correctly shown on the drawings submitted. Section 5.13 of the Development Management Guidelines for Planning Authorities advise that the planning system is not designed as a mechanism for resolving disputes about rights over land and that these are ultimately matters for resolution in the Courts. Section 34(13) of the Planning and Development Act 2000 (as amended) states, 'a person shall not be entitled solely by reason of a permission under this section to carry out any development'.

### **7.5. *Boundary Treatments***

- 7.5.1. There are a number of mature trees and vegetation along the southern and western boundaries of the site. Timber posts with a wire fence are also provided along the southern boundary of the site. It appears from the site layout drawing submitted on the 30<sup>th</sup> August 2018, that the boundary is formed by the trees and that they are located within both sites.
- 7.5.2. Concerns were raised in the appeal that the development would have a negative impact on the existing boundary treatments, in particular on the existing mature trees. The NIAH notes the tree lined driveway as a feature of Summerhill House.
- 7.5.3. A condition was attached to the final grant of permission that all trees be protected unless otherwise agreed with the Planning Authority. It is my view that in the interest of residential and visual amenity a similar condition be attached.
- 7.5.4. Concerns were also raised in the appeal that no details of a physical site boundary had been provided along the southern boundary of the site. It is recommended that a condition be attached to any grant of permission that a boundary treatment along the southern boundary of the site be agreed with the Planning Authority.

### **7.6. *Traffic and access***

- 7.6.1. Concerns have been raised in the appeal that the internal road layout and new vehicular access onto Lovell's Hill cannot be constructed as shown as the applicant

does not have legal ownership of a section of the site. In response the applicant has stated that they are the legal owners of the site as shown in the drawings submitted.

7.6.2. It is proposed to provide a new 10.7m wide splayed entrance onto Lovell's Hill. An additional 2m wide pedestrian access is proposed to the north of the vehicular access. The internal road is 5.5m in width with a footpath located along the northern side of the road, outside the proposed houses. An area of open space is proposed to the south of the carriageway. A turning area has been provided between the pairs of semi-detached houses and 2 no. car parking spaces have been provided per house. It is also proposed to provide a new 2m wide public footpath along the eastern boundary of the site with Lovell's Hill.

7.6.3. It is noted that the Area Engineers final report raised no concerns regarding the proposed road layout. Having regard to the design and layout of the internal road network and proposed access onto Lovell's Hill. It is my view that the proposed development would not result in a traffic hazard or generate any safety concerns.

#### 7.7. ***Appropriate Assessment***

7.7.1. Having regard to the nature and scale of the proposed development within a serviced urban area and the distance from the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect, individually, or in combination with other plans or projects, on a European site

### 8.0 **Recommendation**

8.1. I recommend that permission be granted subject to conditions.

### 9.0 **Reasons and Considerations**

9.1. Having regard to the location of the site within the 'existing built up area' of Bandon the provisions of the Cork County Development Plan, 2014, the existing pattern of development in the area, and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable and would not seriously injure the

amenities of the area. The proposed development would, therefore be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 26<sup>th</sup> day of February 2019 by way of further information and on the 5<sup>th</sup> day of May 2019 by way of clarification of further information, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. All trees and hedgerows within and on the southern and western boundaries of the site shall be retained and maintained, with the exception of the following:
  - (a) Specific trees, the removal of which is authorised in writing by the planning authority to facilitate the development.
  - (b) Trees which are agreed in writing by the planning authority to be dead, dying or dangerous through disease or storm damage, following submission of a qualified tree surgeon's report, and which shall be replaced with agreed specimens.

Retained trees and hedgerows shall be protected from damage during construction works. Within a period of six months following the substantial occupation of the proposed development, any planting which is damaged or dies shall be replaced with others of similar size and species, together with replacement planting required under paragraph (b) of this condition.

**Reason:** In the interest of visual and residential amenity.

3. Prior to commencement of development the applicant shall submit and agree in writing details of a physical boundary treatment along the southern boundary of the site.

**Reason:** In the interest of visual and residential amenity.

4. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interest of residential and visual amenity.

5. Details of the retaining structures shall be agreed in writing with the Planning Authority. A letter of certification shall be provided by the Design Engineer responsible for the retaining structures, confirming that the structures have been constructed as per the design.

Alternatively, this certification shall be provided by a suitably qualified structural design engineer, to the written approval of the Planning Authority.

**Reason:** In the interests of orderly development and residential amenity.

6. The formation of the vehicular access to the site and the provision of a footpath along the eastern boundary of the site shall be constructed in accordance with the requirements of the planning authority.

**Reason:** In the interest of orderly development and traffic safety

7. The internal road network serving the proposed development, including the turning area, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works.

**Reason:** In the interest of amenity and of traffic and pedestrian safety.

8. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of method for removing rock, intended construction practice for the development, including noise management measures and off-site disposal of construction / demolition waste.

**Reason:** In the interests of public safety and residential amenity.

9. Proposals for a house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme.

**Reason:** In the interest of urban legibility

10. Drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

11. The applicant shall enter into water and waste water connection agreements with Irish Water, prior to commencement of development.

**Reason:** In the interest of public health.

12. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these

times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the amenities of property in the vicinity.

13. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

**Reason:** In the interests of visual and residential amenity.

14. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interests of amenity and public safety

15. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory completion of the development

16. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of

development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission

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Elaine Power  
Planning Inspector

8<sup>th</sup> October 2019